

THE BRAD SOHN LAW FIRM, PLLC

Bradford Rothwell Sohn, Esq.
Brad@Sohn.com

August 22, 2019

via CM/ECF

RE: *In re Nat'l Football League Players' Concussion Injury Litigation III* (2:19-MD-2323-AB)

Hon. Judge Anita B. Brody
United States District Court
Eastern District of Pennsylvania
James A. Byrne U.S. Courthouse
601 Market Street, Room 7613
Philadelphia, PA 19106

Dear Judge Brody,

In response to the Court's notice¹, this letter and incorporated resume constitute my portion of a joint application for co-lead counsel, submitted on behalf of myself and Ms. Wendy Fleishman (of Lieff, Cabraser, Heimann & Bernstein, LLP.) Our joint-application is presented with the support of those other firms principally representing plaintiffs with still-pending "Riddell" cases (e.g., Jason Luckasevic on behalf of those Plaintiffs represented by Goldberg, Persky & White and Girardi Keese, as well as William T. Gibbs on behalf of those Plaintiffs represented by Corboy and Demetrio.) What follows in this letter serves as support for my own portion of the joint application.

The formidable challenges presented by this litigation are vast. I am acutely aware of these challenges, having served and/or litigated approximately 100 non-party subpoenas literally across the country, combed through the national archives, and spent hundreds (if not more) hours researching every public source imaginable. Exactly because this litigation commands so much work and implicates so many details, across so many areas, it needs someone at the helm to not only be skilled and tenacious, but who also ideally has a working familiarity with the core issues—which are unusually many. I respectfully submit that I am well-suited to serve the plaintiffs in this capacity, and alongside Ms. Fleishman, in this capacity.

My Miami-based practice focuses on complex and catastrophic injury litigation, although it is particularly unique (and perhaps uniquely well-suited for this matter) in that more than half of my practice concerns football-related litigation, in some form. Although my background is in

¹ See D.E. 10760 ("NOTICE THAT ON OR BEFORE 8/22/2019 ANY COUNSEL WHO WISHES TO SERVE AS LEAD COUNSEL OR AS A MEMBER OF THE STEERING COMMITTEE FOR THE CASES INVOLVING THE REMAINING DEFENDANTS MUST FILE AN APPLICATION WITH THE CLERK OF COURT ON THE DOCKET DESCRIBED BELOW. THE APPLICATION MUST INCLUDE A RESUME, A DESCRIPTION OF PRIOR EXPERIENCE IN COMPLEX LITIGATION AND JUDGES BEFORE WHOM COUNSEL HAS APPEARED. THE CLERK OF COURT WILL MAINTAIN A NEW MASTER DOCKET CASE FILED STYLED "IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION III" 2:19-MD-2323-AB. THE DOCKET WILL BE COORDINATED WITH THE DOCKETS RELATING TO FIRST PHASE OF THIS CASE. 7/23/2019 SIGNED BY HONORABLE ANITA B. BRODY.")

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complex litigation and serious-injury matters, where I have handled cases involving the tobacco companies, medical malpractice, and other serious injury/death matters, having played division I-A and I-AA college football, thereby developing close relationships to a game that often ends painfully for players, those relationships led me to an increasingly significant focus on litigation against various entities within the football industry. In recent times, I am immensely proud of my work on various matters with the Court and co-lead class counsel on a number of matters in this very MDL, as I am also with opposing counsel. With regard to this latter point, it is a personal point of pride for me to work productively with my adversaries. *See Ex. "A".* Separately from this MDL altogether, however, I have also—on many occasions—delivered for pro football player clients, whether in the context of claims for negligent premises maintenance, for medical malpractice, or insurance coverage litigation with Certain Underwriters at Lloyd's of London related to the same.

The handling of these football-related matters has necessarily meant my facing and defeating the legal defense of section 301 preemption, vis-à-vis the NFL's Collective Bargaining Agreement. I have never lost to this defense. Indeed, when the identical counsel for the Riddell defendants raised this identical defense, based on an identical complaint on a motion for remand in U.S. District Court in Illinois, I defeated it there, too. *See Oliver v. Riddell, Inc.*, No. 16-cv-4760, 2016 WL 7336412 (N.D. Ill. Jul. 19, 2016). That legal victory evolved into a co-lead counsel role in a still-ongoing and parallel *in re* proceeding involving thirty-something retired players and the same defendants in Cook County, Illinois. And beyond handling consolidated litigation on these precise issues, with these precise opposing counsel in Cook County, I have also contributed substantially to the development of this litigation in its present form. With helpful contributions from Ms. Fleishman and colleagues working under her, I performed primary source research on every aspect of the alleged civil conspiracy/joint venture involving the football industry that was front and center in the Second Amended Master Administrative Complaint – Riddell (and as to the NFL, as well.) I also represent several wrongful death plaintiffs in connection with their Riddell-related claims within this MDL.

For all of these reasons, I would be honored and excited to work in this capacity, having worked so closely with Ms. Fleishman and her firm, both in related and entirely separate litigations. In conjunction with the Court's desires and subject to the litigation's needs, we would—in the event of our appointment—be inclined to engage a Plaintiff's Steering Committee. Subject to the work performed and the Court's wishes, we would be inclined to include as part of this PSC, the following attorneys and firms: Mr. Gibbs; Mr. Luckasevic; Messrs. Seth Miles, Brett Von Borke, and David Buckner, from the Buckner Miles firm in Miami; and Mr. Alan Feldman of Feldman Shepherd in Philadelphia.

Regards,



Bradford R. Sohn

BRS/brs

THE BRAD SOHN LAW FIRM, PLLC
2600 SOUTH DOUGLAS ROAD, SUITE 1007
CORAL GABLES, FLORIDA 33134
PH: 786.708.9750 FAX: 305.397.0650

Bradford Rothwell Sohn, Esq. represents individual and corporate plaintiffs who have been wronged by the conduct of others. He focuses his practice in the areas of catastrophic injury and wrongful death, product liability, complex litigation, medical negligence, mass tort, and class action, and is presently admitted on a permanent or *pro hac vice* basis in various state and federal courts throughout the United States.

For entire career Brad has been proud to represent "the little guy" in some of the highest-stakes cases. Since 2015, he has recovered more than \$50,000,000 for these individual clients. In addition, Brad has received multi-million dollar verdicts against some of the largest corporations in the world, and has been a key participant in several global settlements where "Big Tobacco" and the NFL agreed to pay claimants billions of dollars.

Brad received his A.B. degree cum laude from Harvard University and his J.D., cum laude from the University of Miami School of Law. As an active member of bar and community associations, Brad has served by appointment on committees for the American Association for Justice, as an alumni interviewer for Harvard University for the past 15 years, and has sat on leadership boards for multiple charities. He is a former college football player, a proud husband, and a father of three.



EX. "A"

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Former Adversaries Team Up on \$180M NFL Player's Lawsuit

Solo practitioner Brad Sohn has teamed up with Boies Schiller Flexner attorney Mark Heise to represent former Minnesota Vikings defensive tackle in a medical malpractice suit that alleges a procedure ended the football player's career.

By [Dylan Jackson](https://www.law.com/americanlawyer/) (/author/profile/Dylan-Jackson/) | June 30, 2019 at 06:12 PM | Originally published on [The American Lawyer](https://www.law.com/americanlawyer/) (<https://www.law.com/americanlawyer/>)

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Former Minnesota Vikings defensive tackle Sharrif Floyd (Photo: Ann Heisenfelt/AP)

Florida attorney Brad Sohn was casually talking on the phone to his friend Mark Heise, a partner at Boies Schiller Flexner, when he brought up the blockbuster \$180 million case he was handling: Ex-Minnesota Vikings defensive tackle Sharrif Floyd—the No. 23 NFL draft pick in 2013—was suing high-profile sports surgeon Dr. James Andrews, among others, alleging that a routine procedure resulted in partially paralyzing Floyd, effectively ending his NFL career.

The two attorneys go back awhile. Five years ago, they were adversaries on a tobacco lawsuit. Sohn represented the plaintiffs, Heise the defendants.

"As with most tobacco cases, there was a lot on the line," Heise said.

Sohn won a \$180,000 judgment for his client in that case. But the two lawyers, despite serving as opposing counsel, developed a mutual respect. A friendship blossomed. The two would see each other from time to time, running into one another in South Florida legal circles. And their friendship grew as they started to discuss their lives as well as their cases.

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So when Sohn, a solo practitioner, called Heise and mentioned Floyd's medical

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malpractice suit, Heise immediately wanted to work on the case with him.

"I had initially called him just to discuss something, and I said, 'Hey wouldn't it be great if we could work on this case together?'" Sohn said.

Now, the former adversaries are serving as co-counsel in what is sure to be one of Sohn's highest-profile cases. Sohn urged him to sign on, as he wanted the kind of national firepower he knew Boies Schiller could provide. Heise joined the case in June.

The complaint (<https://www.documentcloud.org/documents/6175954-SharrifFloydComplaint.html>), filed in state circuit court in Central Florida in November of last year, lists nine defendants, including Andrews, Baptist Health Care and three other doctors. The filings allege that in 2016, Andrews performed surgery that was more invasive than the routine arthroscopic procedure Floyd had agreed to. And to recover from the surgery, Floyd was administered a post-operative nerve block that paralyzed a nerve and the surrounding muscle—a result that ended his professional football career. Floyd did not consent to the second procedure either, the suit alleges.

The lawsuit is likely to garner attention not only because of Floyd but because Andrews is a prominent figure in the world of sports medicine. He and his group have treated thousands of athletes for ligament and joint issues, including such major figures as Michael Jordan and Roger Clemens.

Bringing on Heise and his team—Boies Schiller Flexner attorneys Luis Suarez and Patricia Melville—will bring more energy and firepower to a case that will produce a mountain of discovery and send the attorneys all over the country deposing witnesses, Sohn said.

"They are as skilled a team as any that could be put together," said Sohn. "We need everybody in high-gear and I feel lucky that we have that team in place."

A trial could take place before the end of the year.

Andrews and his attorney, J. Nixon Daniel of Beggs & Lane, did not immediately respond to a request for comment.

Henry Buchanan attorney Jesse Suber is representing defendants Gregory Hickman and Paradigm Anesthesia. Hall Booth Smith attorneys S. William Fuller and Kirk Carter are representing The Andrews Institute and Ambulatory Surgery Center. Beggs & Lane attorneys J. Nixon Daniel and Jack Lurton are representing the remaining physicians and hospital groups.

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Dylan Jackson

Dylan Jackson writes about national law firms with a pinch of politics and Latin America. He can be reached at djackson@alm.com or 305-347-6677. On Twitter @DylanBJackson



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